



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

TEXAS HEALTH DALLAS
3255 WEST PIONEER PARKWAY
ARLINGTON TX 76013

Respondent Name

DALLAS ISD

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-12-2758-01

MFDR Date Received

APRIL 26, 2012

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Since TDI moved to a 143% of DRG for inpatient services on 3/1/08 for hospital claims, we have reviewed the Medicare allowance and decided the insurance reimbursement does not meet this criteria. Medicare would have allowed this facility \$20,689.81 for DRG 467. At 108% the amount due is \$22,344.99. The implant cost was \$17,014.52 X 110%=\$18,715.97. Therefore, the correct allowable is \$41,060.96. After their payment of \$39,939.16, a supplemental payment of \$1,121.80 is due"

Amount in Dispute: \$89.93

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The dispute is in regards to the pass thru reimbursement of \$89.93 (\$83.28 X 108% for this four-day inpatient hospital stay. The Medicare Prospective Inpatient Payment System Pricer version 2012.1 indicates the reimbursement amount for DRG 467 is \$19,161.10 (total operating amount) plus \$1,445.53 (total capital amount) for a total amount of \$20,606.53. This amount multiplied by 108% equals the previous recommended amount of \$22,255.05. According to the Division of Workers' Compensation, the **pass thru amount** of \$83.28 is not part of the reimbursement formula for the Inpatient Hospital Facility Fee Guideline...Therefore, no additional allowance is due."

Response Submitted by: Argus

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 29, 2011 Through October 3, 2011	Inpatient Hospital Surgical Services	\$89.93	\$89.93

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.

2. 28 Texas Administrative Code §134.404 sets out the guidelines for reimbursement of hospital facility fees for inpatient services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
Explanation of benefits
 - W1RA-Workers compensation state fee schedule adjustment. *Medicare inpatient hospital specific reimbursement amount multiplied by 108%. DWC rule 134.404.*
 - 97H-The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated. *Service(s)/Procedure is included in the value of another service/procedure billed on the same date.*
 - W1UA-Workers compensation state fee schedule adjustment. *Implantables are reimbursed at the lesser of the manufacturers invoice amount or the net amount plus 10% or \$1,000.00 per billed item add-on, whichever is less, not to exceed \$2,000.00 in add-on.
 - 193-W-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly. *Previous recommendation was in accordance with the Workers' Compensation State Fee Schedule.*
 - 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - 193-E-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly. *Duplicate Appeal. An appeal of the original audit was previously performed for these services.*

Issues

1. Were the disputed services subject to a specific fee schedule set in a contract between the parties that complies with the requirements of Labor Code §413.011?
2. Which reimbursement calculation applies to the services in dispute?
3. What is the maximum allowable reimbursement for the services in dispute?
4. Is the requestor entitled to additional reimbursement for the disputed services?

Findings

1. 28 Texas Administrative Code §134.404(e) states that: "Except as provided in subsection (h) of this section, regardless of billed amount, reimbursement shall be:
 - (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code §413.011; or
 - (2) if no contracted fee schedule exists that complies with Labor Code §413.011, the maximum allowable reimbursement (MAR) amount under subsection (f) of this section, including any applicable outlier payment amounts and reimbursement for implantables."

No documentation was found to support the existence of a contractual agreement between the parties to this dispute; therefore the MAR can be established under §134.404(f).

2. §134.404(f) states that "The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied.
 - (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
 - (A) 143 percent; unless
 - (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 108 percent."

Review of the documentation finds that that the facility requested separate reimbursement for implantables; for that reason, the requirements of subsection (g) apply.

3. §134.404(g) states, in pertinent part, that "(g) Implantables, when billed separately by the facility or a surgical implant provider in accordance with subsection (f)(1)(B) of this section, shall be reimbursed at the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission.

- (1) A facility or surgical implant provider billing separately for an implantable shall include with the billing a certification that the amount billed represents the actual costs (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge."

Review of the documentation found supports that the following items were certified as required by (g):

Itemized Statement Rev Code or Charge Code	Itemized Statement Description	# Units & Cost Per Unit	Cost Invoice Amount	Per item Add-on (cost +10% or \$1,000 whichever is less).
278 or other disputed (b)(2) items	FMRL AUG SIG	1 at \$859.30	\$859.30	\$945.23
278 or other disputed (b)(2) items	CEMT BONE END	2	None provided	\$0.00
278 or other disputed (b)(2) items	TRAY TIB MBT	1 at \$3960.45	\$3,960.45	\$4,356.50
278 or other disputed (b)(2) items	FMRL PFC SIG	1 at \$5,008.90	\$5,080.90	\$5,509.79
278 or other disputed (b)(2) items	FMRL AUG SIG	1 at \$859.30	\$859.30	\$945.23
278 or other disputed (b)(2) items	SUTR FIBERWIRE	1	None provided	\$0.00
278 or other disputed (b)(2) items	SUTR MONOCRYL	1	None provided	\$0.00
278 or other disputed (b)(2) items	SUTR VICRYL 0	5	None provided	\$0.00
278 or other disputed (b)(2) items	SUTR VICRYL 2	1	None provided	\$0.00
278 or other disputed (b)(2) items	ADPTR FMRL SI	1 at \$1769.30	\$1769.30	\$1946.23
278 or other disputed (b)(2) items	ADPTR FMRL SI	1 at \$247.65	\$247.65	\$272.42
278 or other disputed (b)(2) items	INSERT TIB TC	1 at \$2126.15	\$2126.15	\$2338.77
278 or other disputed (b)(2) items	STEM REV FLUT	1 at \$1245.40	\$1245.40	\$1369.94
			\$16,076.45	\$17,684.10
			Total Supported Cost	Sum of Per-Item Add-on

The division finds that the facility supported separate reimbursement for these implantables, and that the cost invoices were certified as required. Therefore, the MAR is calculated according to §134.404(f)(1)(B).

4. §134.404(f)(1)(B) establishes MAR by multiplying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors (including outliers) by 108%, **plus** reimbursement for items appropriately certified under §134.404(g). The Medicare IPPS payment rates are found at <http://www.cms.gov>, and the sum of the per-item add-on for which separate reimbursement was requested are taken from the table above.

- Documentation found supports that the DRG assigned to the services in dispute is 467, and that the services were provided at Texas Health Dallas.
- The respondent's position states "The Medicare Prospective Inpatient Payment System Pricer version 2012.1 indicates the reimbursement amount for DRG 467 is \$19,161.10 (total operating amount) plus \$1,445.53 (total capital amount) for a total amount of \$20,606.53. This amount multiplied by 108% equals the previous recommended amount of \$22,255.05. According to the Division of Workers' Compensation, the *pass thru amount* of \$83.28 is not part of the reimbursement formula for the Inpatient Hospital Facility Fee Guideline...Therefore, no additional allowance is due." In support of their argument the respondent quotes the Rule Adoption Order for Health Facility Fees rule §134.404 which states:

The Division agrees that the Labor Code does not provide for pass-through reimbursements to cover bad debt or teaching schools. For this reason, the Division has adopted CMS's base methodology but not parts related to the cost report process that address bad debt and direct medical education(33 Texas Register 419).

28 Texas Administrative Code §134.404(f) provides, in pertinent part, that "The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors as published annually in the Federal Register" with minimal modification as specified in the rule. Contrary to the respondent's position, the Division notes that the Rule Adoption Order does not specify that pass-through reimbursements are excluded from payment rule, only that the Labor Code does not provide for pass-through reimbursements to cover bad debt or direct medical education. The Division clarified elsewhere in the preamble that "Bad debt and direct medical education are paid outside the base methodology and are a part of the cost report reconciliation process, which the Division has not adopted" (33 Texas Register 419). In each instance the Division is referring to a process, cost report reconciliation, that was not adopted and accordingly not mentioned in the text of the rule. The respondent has not supported the argument that pass-through amounts are to be excluded from CMS's base methodology, or from the calculation of the Medicare facility specific amount.

- Consideration of the DRG, location of the services, and bill-specific information results in a total Medicare facility specific allowable amount of \$20,689.81. This amount multiplied by 108% results in an allowable of \$22,344.99.
- The total cost for implantables from the table above is \$16,076.45. The sum of the per-billed-item add-ons does not exceed the \$2000 allowed by rule; for that reason, total allowable amount for implantables is \$16,076.45 plus \$1607.65, which equals \$17,684.10.

Therefore, the total allowable reimbursement for the services in dispute is \$22,344.99 plus \$17684.10, which equals \$40,029.09. The respondent issued payment in the amount of \$39,939.16. Based upon the documentation submitted, additional reimbursement in the amount of \$89.93 is recommended.

Conclusion

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$89.93 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

11/06/2013

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.